

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

MDL NO. 13-02419-RWZ

IN RE: NEW ENGLAND COMPOUNDING PHARMACY, INC.
PRODUCTS LIABILITY LITIGATION

ORDER

January 14, 2016

ZOBEL, D.J.

In this complex multidistrict litigation, the court and the parties to the Tennessee Cases are currently involved in a process to select cases for bellwether trials.

Pursuant to this court's July 9, 2015 Order (Docket # 2075), each side initially proposed eight bellwether candidate cases. Each side has the right to strike four of the other side's proposals, and the court will ultimately select four bellwether cases from those that remain.

In its initial list of eight cases, defendants proposed the cases of plaintiffs Jon Kinsley and Donna Branham. Since then, both Kinsley and Branham have filed notices voluntarily dismissing their cases. See Docket # 56 in case no. 1:13-cv-12604; Docket # 57 in case no. 1:13-cv-12571.

In the present motion (Docket # 2432), certain of the defendants (the so-called Saint Thomas Entities, and others who have joined the motion (Docket # 2441)) move to strike Kinsley and Branham's dismissals of their cases. In the alternative, they

request that these two plaintiffs' cases be dismissed with prejudice and that the dismissals be counted as two of the Plaintiffs' Steering Committee's strikes for purposes of the bellwether selection process.

I have considered the parties' briefs and oral argument. The Motion to Strike Dismissals of Bellwether Cases (Docket # 2432) is denied. However, Kinsley and Branham's cases are dismissed with prejudice, and the dismissals count as two of the Plaintiffs' Steering Committee strikes for purposes of the bellwether selection process.

January 14, 2016

DATE

/s/Rya W. Zobel

RYA W. ZOBEL

UNITED STATES DISTRICT JUDGE